

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6875

BILL NUMBER: HB 1210

NOTE PREPARED: Mar 29, 2011

BILL AMENDED: Mar 29, 2011

SUBJECT: Breast Cancer Screening and Various Abortion Matters.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill states public policy findings concerning a fetus feeling pain and a compelling state interest in protecting the fetus.

The bill sets requirements for performing an abortion after the first trimester but before the earlier of viability of the fetus or 20 weeks of postfertilization age of the fetus (current law requirements are based on viability of the fetus). It requires that a physician determine the postfertilization age of a fetus before performing an abortion, and allows for the discipline of a physician who fails to do this in certain circumstances.

The bill requires a physician who performs an abortion to: (1) have admitting privileges at a hospital in the county or in a contiguous county to the county where the abortion is performed; or (2) enter into an agreement with a physician who has admitting privileges in the county or contiguous county; and notify the patient of the hospital location where the patient can receive follow-up care by the physician.

The bill adds information that a pregnant woman must be informed of orally and in writing (current law requires that the information be given only orally) before an abortion may be performed concerning the physician, risks involved, information concerning the fetus, available assistance, and existing law. It also requires a pregnant woman seeking an abortion to view fetal ultrasound imaging unless the pregnant woman states in writing that the pregnant woman does not want to view the fetal ultrasound imaging.

The bill prohibits qualified health plans under the federal health care reform law from providing coverage for abortion.

The bill requires the Indiana State Department of Health (ISDH) to develop materials to be provided to a

pregnant woman setting forth certain information and to post the materials on the ISDH web site.

The bill creates a cause of action for a pregnant woman or the biological father of the fetus for actual and punitive damages if a physician recklessly, knowingly, or intentionally performs or attempts to perform an abortion in violation of the law. It also provides for injunctive relief for specified individuals against a physician to prevent the physician from performing further abortions that violate the law.

The bill creates the Special Litigation Defense Fund to provide reimbursement of the costs and expenses incurred by the Attorney General in defending the constitutionality of this act, and continuously appropriates the fund. It specifies enforcement of the law during a temporary or permanent restraining order. It also provides for severability of provisions if a court determines that any of the law is unconstitutional, and specifies prior law returns to effect if the amended law is found by the court to be unconstitutional.

The bill establishes the Breast and Cervical Cancer Screening Services Program to be administered by the Office of the Secretary of Family and Social Services (FSSA) and appropriates funds. It allows funds from the Indiana Check-up Plan Trust Fund to be used to provide payment for breast and cervical cancer screening services.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Summary:* An estimate based on the experience of the Texas Department of State Health Services in implementing similar legislation indicates that \$28,800 to \$30,800 may be necessary for the ISDH initially to assemble, print, and distribute the required information in hard-copy form. Some additional Indiana Office of Technology (IOT) expense is expected to be required to add the information to the web page and to maintain the information on the website. Annual ongoing printing and distribution costs are estimated to be \$10,000 to \$12,000 with some additional unknown level of staff costs associated with updating the required lists of available services.

The bill also creates the nonreverting Special Litigation Defense Fund to provide reimbursement for expenses incurred by the Attorney General in defense of the bill. The bill provides that money in the fund is continuously appropriated and specifies the source of funding as appropriations, donations, gifts, or grants. The bill does not contain an appropriation to provide money for the fund.

(Revised) The bill establishes the Breast and Cervical Cancer Screening Services Program to be operated by the Office of the Secretary of the Family and Social Services Administration. Any women over the age of 35 years with no third-party coverage for breast and cervical cancer screening services would be eligible to receive services under the program. Services are required to be paid at Medicare reimbursement rates and would be provided at 100% state cost. U.S. Census reports for 2005, indicate there were approximately 164,000 uninsured women between the ages of 40 and 64 years in Indiana. If the average cost of screening and diagnostic services is \$350 every two years, the potential annual cost of this program is estimated to be as much as \$28.7 M. This estimate does not include administrative expenses. The program would not cover treatment costs. If additional women would be identified to have breast or cervical cancer, treatment would be provided within the Medicaid program as long as diagnosed women met Medicaid eligibility requirements.

The bill provides an open-ended appropriation from the Indiana Check-Up Plan Trust Fund to fund the screening services. This fund is currently the source of state matching dollars for the Healthy Indiana Plan (HIP). As of March 28, 2011, the balance of the Indiana Check-Up Plan Trust Fund was \$238.2 M.

Additional Details: The bill requires specified information developed by the ISDH to be provided in hard copy to a pregnant woman and to be available on the ISDH web site. The information to be posted includes: scientific information regarding the development of a fetus, including color pictures of every two weeks of gestational age; medically accurate information regarding the medical risks associated with abortion and childbirth; information regarding assistance for pregnancy and childbirth; information regarding a biological father's obligation to pay child support; and information regarding public and private agencies that provide assistance to women throughout pregnancy, childbirth, and the child's dependency. The list of public and private assistance agencies is required to be geographically indexed so that local services can be identified, to identify services that are provided at no cost, and to include specific contact information on adoption agencies on the list. The web site is also required to contain information regarding telephone 211 dialing for accessing human services and the types of services available through the 211 service.

Using assumptions based on Texas' experience, it is estimated that ISDH would need \$30,100 to \$32,100 in General Funds to implement the requirements of the bill. Annual printing and distribution costs of hard copies of the required information is estimated to be \$10,000 to \$12,000. Revisions of the listed data elements would require an unknown level of staff time that would depend on the frequency determined to be necessary for updates.

The state of Texas enacted a similar statute in 2003. The Texas Department of State Health Services estimated that 160 hours were used to assemble the initial booklet of required information. Texas personnel suggested that by using the Texas template that Indiana could reduce the amount of time required to assemble all the required information. If 160 hours were required to assemble the information, using an average total cost of \$32 per hour, assembling a booklet would be anticipated to cost approximately \$5,100. The ISDH could potentially contract for this work if no in-house staff is available.

The Texas Department further reported that the photographs used to illustrate the development phases of the embryo and fetus are copyrighted and cost \$15,000 for the original version. Any subsequent revisions of the material would require an additional \$15,000 expenditure. Texas prints and distributes versions in English and Spanish using a total of approximately 15,000 copies each year. Printing is done in-house for about \$0.75 per English copy and \$0.78 per Spanish copy. (The bill does not require a Spanish version of the information.) Texas providers may order the booklets, which are provided free of charge. Since the Texas population is almost four times that of Indiana, Indiana would be assumed to need about 4,300 hard copies of the document annually. The bill requires the availability of hard-copy documents, so assuming that Indiana would develop documents of 24 to 26 pages and provide it free of charge, and printing costs were similar to those in Texas, printing costs might amount to \$5,000 to \$6,000. Distribution costs would be an additional expenditure that would be expected to be at least as much as the printing costs, or \$5,000 to \$6,000 per year.

The Texas Department of State Health Services reported that they could not easily determine a cost to include the information on the web site since both the documents, including a list of services available by county, were simply converted into a PDF document and posted to the web site as a routine function of maintaining the web site.

The ISDH may have additional costs related to adding the required information to the existing web page and routine costs associated with maintaining data on the web as assessed by the Indiana Office of Technology.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: FSSA; ISDH; Attorney General; Treasurer's Office.

Local Agencies Affected:

Information Sources: Texas Department of State Health Services and Texas Women's Right to Know web page at: <http://www.dshs.state.tx.us/wrtk/default.shtm>; and Georgia Women's Right to Know web page at: <http://health.state.ga.us/wrtk/> .

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